

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3134
OFFERED BY MR. TOM DAVIS OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Federal Real Property
3 Disposal Pilot Program and Management Improvement
4 Act of 2005”.

5 SEC. 2. TABLE OF CONTENTS.

6 The table of contents for this Act is as follows:

1. Short title.
2. Table of contents.

TITLE I—PILOT PROGRAM FOR EXPEDITED DISPOSAL OF
FEDERAL REAL PROPERTY

101. Federal Real Property Disposal Pilot Program.

TITLE II—IMPROVEMENTS TO ECONOMY AND EFFICIENCY OF
FEDERAL REAL PROPERTY

201. Improvements to Federal real property management.

1 **TITLE I—PILOT PROGRAM FOR**
2 **EXPEDITED DISPOSAL OF**
3 **FEDERAL REAL PROPERTY**

4 **SEC. 101. FEDERAL REAL PROPERTY DISPOSAL PILOT PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,
7 United States Code, is amended by adding at the end the
8 following new subchapter:

9 “SUBCHAPTER VII—EXPEDITED DISPOSAL OF
10 REAL PROPERTY

11 “§ 621. Requirement for pilot program

12 “(a) IN GENERAL.—The Director of the Office of
13 Management and Budget (in this subchapter referred to
14 as the ‘Director’) shall conduct a pilot program, to be
15 known as the ‘Federal Real Property Disposal Pilot Pro-
16 gram’, under which real property that is excess, surplus,
17 under-performing, or otherwise not meeting Federal Gov-
18 ernment needs shall be disposed of in accordance with this
19 subchapter.

20 “(b) CRITERIA.—For purposes of this subchapter,
21 the Director shall identify criteria for determining whether
22 real property is under-performing or otherwise not meet-
23 ing Federal Government needs.

1 **“§ 622. Selection of real properties and termination of**
2 **pilot program**

3 “(a) SELECTION OF REAL PROPERTIES.—During the
4 first 3 years of the pilot program, the Director, with the
5 concurrence of the head of the executive agency concerned,
6 shall select at least 5 real properties per year that are
7 owned by executive agencies for participation in the pilot
8 program. During the last 2 years of the pilot program,
9 the Director, with the concurrence of the head of the exec-
10 utive agency concerned, may select additional real prop-
11 erties that are owned by executive agencies for participa-
12 tion in the pilot program.

13 “(b) FACTORS TO BE CONSIDERED.—A real property
14 may be selected for participation in the pilot program only
15 after the Director, in consultation with the Federal Real
16 Property Council, considers the following:

17 “(1) Whether the real property could be used to
18 meet the needs of another Federal agency.

19 “(2) Whether the real property may be suitable
20 for use by an organization that provides services to
21 the homeless.

22 “(c) TERMINATION OF PILOT PROGRAM.—The Fed-
23 eral Real Property Disposal Pilot Program shall terminate
24 5 years after the date of the enactment of this subchapter.

1 **“§ 623. Expedited disposal requirements**

2 “(a) REQUIREMENT TO CONDUCT EXPEDITED DIS-
3 POSALS.—

4 “(1) IN GENERAL.—Under the pilot program,
5 the Director shall authorize executive agencies to
6 conduct expedited disposals of the real properties se-
7 lected pursuant to section 622 of this title.

8 “(2) EXPEDITED DISPOSAL DEFINED.—For
9 purposes of the pilot program, an expedited disposal
10 of a real property is a sale of real property for cash
11 that is conducted pursuant to the requirements of
12 section 545 of this title.

13 “(b) FAIR MARKET VALUE.—A real property may be
14 sold under the pilot program only if the Federal Govern-
15 ment receives not less than 90 percent of the fair market
16 value for the sale, determined in accordance with a method
17 specified by the Director.

18 “(c) MONETARY PROCEEDS; PROHIBITION ON
19 TRANSACTIONS OTHER THAN SALES FOR CASH.—A real
20 property may be sold under the pilot program only if the
21 property will generate monetary proceeds to the Federal
22 Government. A disposal of real property under the pilot
23 program may not include any exchange, trade, transfer,
24 acquisition of like-kind property, or other non-cash trans-
25 action as part of the disposal.

1 “(d) NONAPPLICABILITY OF OTHER LAWS.—Any ex-
2 pedited disposal of a real property conducted under this
3 section shall not be subject to—

4 “(1) sections 550 and 553 of this title; or

5 “(2) section 501 of the McKinney-Vento Home-
6 less Assistance Act (42 U.S.C. 11411).

7 **“§ 624. Special rules for deposit and use of proceeds**
8 **from expedited disposals**

9 “(a) DISTRIBUTION REQUIREMENTS.—With respect
10 to the disposal of a real property under the pilot program,
11 the monetary proceeds from the disposal shall be available
12 for payment of administrative costs of the transaction,
13 subject to section 625, without further appropriation.
14 After payment of administrative costs the balance of the
15 monetary proceeds shall be distributed as follows:

16 “(1) 80 percent shall be deposited into the
17 Treasury as miscellaneous receipts.

18 “(2) 10 percent shall be deposited into an ac-
19 count in the Treasury for use for any program or
20 purpose previously authorized by law by any execu-
21 tive agency determined by the Director to be af-
22 fected by the disposal, to remain available until ex-
23 pended without further appropriation or authoriza-
24 tion.

1 “(3) 5 percent shall be deposited into an ac-
2 count in the Treasury for use by the Administrator
3 of General Services, without further appropriation or
4 authorization, to disburse in accordance with sub-
5 section (c) to local taxing jurisdictions affected by
6 the disposal. Funds not disbursed within 180 days
7 after the disposal shall be deposited into the Treas-
8 ury as miscellaneous receipts.

9 “(4) 5 percent shall be deposited into the Fed-
10 eral Real Property Pilot Program Fund established
11 under subsection (d).

12 “(b) LIMITATION.—Proceeds from the disposal of a
13 real property under the pilot program shall not be subject
14 to subchapter IV of this chapter.

15 “(c) REQUIREMENTS FOR LOCAL TAXING JURISDIC-
16 TIONS.—

17 “(1) APPLICATION.—A local taxing jurisdiction
18 affected by the disposal of a real property under the
19 pilot program may apply to the Administrator of
20 General Services for funds in an amount not exceed-
21 ing the amount deposited in the Treasury pursuant
22 to subsection (a)(3) from the disposal of the prop-
23 erty. The application shall contain such information,
24 and be submitted at such time and in such manner,

1 as the Administrator determines appropriate. At a
2 minimum, the application shall contain—

3 “(A) a certification that the entity is the
4 primary local taxing authority over the property
5 that was sold; and

6 “(B) a description of the plans for the use
7 of the funds.

8 “(2) IMPACT STATEMENT.—A local taxing juris-
9 diction that receives funds under this subsection
10 should submit to the Federal Real Property Council,
11 not later than 1 year after receipt of the funds, a
12 written statement describing the effect of the dis-
13 posal of the property on the local taxing jurisdiction.

14 “(d) FEDERAL REAL PROPERTY PILOT PROGRAM
15 FUND.—

16 “(1) ESTABLISHMENT.—There is established in
17 the Treasury a Fund to be known as the Federal
18 Real Property Pilot Program Fund.

19 “(2) ADMINISTRATION.—The Fund shall be ad-
20 ministered by the General Services Administration.

21 “(3) COMPOSITION.—The Fund shall be com-
22 posed of amounts authorized to be transferred to the
23 Fund or otherwise made available to the Fund. The
24 Fund shall remain available until expended without
25 further appropriation or authorization for the period

1 of the Pilot Program. Upon termination of the Pilot
2 Program, any unspent amounts in the Fund shall be
3 deposited into the Treasury as miscellaneous re-
4 ceipts.

5 “(4) USE OF FUND.—Subject to section 633(d),
6 the Fund shall be available for use by the Adminis-
7 trator of General Services to support Federal real
8 property disposal activities approved by the Director
9 in consultation with the Federal Real Property
10 Council.

11 **“§ 625. Administrative provisions**

12 “(a) USE OF AGENCY FUNDS FOR COSTS OF DIS-
13 POSALS.—

14 “(1) IN GENERAL.—Subject to subsection (b),
15 an executive agency may use any amounts described
16 in paragraph (2) for paying the costs incurred by
17 the agency, or for reimbursing the costs incurred by
18 the Administrator of General Services, for the dis-
19 posal of real property under the pilot program, in-
20 cluding the costs of any of the following:

21 “(A) Site remediation, restoration, or other
22 environmental services.

23 “(B) Relocation of affected tenants and
24 other occupants.

25 “(C) Advertising and marketing.

1 “(D) Community outreach.

2 “(E) Surveying.

3 “(F) Appraisal.

4 “(G) Brokerage.

5 “(H) Historic preservation services.

6 “(I) Title insurance.

7 “(J) Due diligence.

8 “(K) Document notarization and recording
9 services.

10 “(L) Prepayment of up to one year’s as-
11 sessed property taxes.

12 “(M) Any other costs, whether direct or in-
13 direct, associated with the sale of the property.

14 “(2) AMOUNTS DESCRIBED.—For purposes of
15 paragraph (1), the amounts described in this para-
16 graph with respect to an executive agency are the
17 following:

18 “(A) Proceeds from a disposal of real
19 property by the executive agency under the pilot
20 program

21 “(B) Amounts available to the agency from
22 deposits made pursuant to section 624(a)(2).

23 “(C) Amounts otherwise available to the
24 agency.

1 “(b) LIMITATION ON AMOUNT USED FOR COSTS OF
2 DISPOSALS.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), with respect to the disposal of a real
5 property by an executive agency, the agency may not
6 use amounts, as authorized under subsection (a), for
7 costs associated with the disposal of the property in
8 any amount exceeding 25 percent of the fair market
9 value of the property.

10 “(2) EXCEPTION.—An agency may use
11 amounts exceeding the 25 percent limitation in para-
12 graph (1) if such additional amounts—

13 “(A) are approved by the Director; and

14 “(B) are provided by the Director from the
15 Federal Real Property Pilot Program Fund es-
16 tablished under section 624(d) of this title.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 5 of subtitle I of title 40,
19 United States Code, is amended by inserting after the
20 item relating to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“621. Requirement for pilot program.

“622. Selection of real properties and termination of pilot program.

“623. Expedited disposal requirements.

“624. Special rules for deposit and use of proceeds from expedited disposals.

“625. Administrative provisions.”.

1 **TITLE II—IMPROVEMENTS TO**
2 **ECONOMY AND EFFICIENCY**
3 **OF FEDERAL REAL PROP-**
4 **ERTY**

5 **SEC. 201. IMPROVEMENTS TO FEDERAL REAL PROPERTY**
6 **MANAGEMENT.**

7 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,
8 United States Code, is amended by adding at the end the
9 following new subchapter:

10 **“SUBCHAPTER VIII—PROPERTY MANAGEMENT**
11 **GENERALLY**

12 **“§ 631. Guidance relating to real property manage-**
13 **ment**

14 “The Director of the Office of Management and
15 Budget (in this subchapter referred to as the ‘Director’)
16 shall issue guidance for the development and implementa-
17 tion of agency asset management plans under this sub-
18 chapter.

19 **“§ 632. Senior Real Property Officers**

20 “(a) ESTABLISHMENT OF AGENCY SENIOR REAL
21 PROPERTY OFFICER.—The head of each agency listed in
22 paragraphs (1) and (2) of section 901(b) of title 31 shall
23 designate among their senior management officials a Sen-
24 ior Real Property Officer. Such officer shall have the edu-
25 cation, training, and experience required to administer the

1 necessary functions of the position for the agency con-
2 cerned.

3 “(b) AGENCY ASSET MANAGEMENT PLAN RESPON-
4 SIBILITIES.—The Senior Real Property Officer of an
5 agency shall develop and implement an agency asset man-
6 agement planning process that meets the form, content,
7 and other requirements established by the Director. The
8 initial agency asset management plan shall be submitted
9 to the Office of Management and Budget on a date deter-
10 mined by the Director. In developing the plan, the Senior
11 Real Property Officer shall—

12 “(1) identify and categorize all real property
13 owned, leased, or otherwise managed by the agency,
14 including, where applicable, those properties outside
15 the United States in which the lease agreements and
16 arrangements reflect the host country currency or
17 involve alternative lease plans or rental agreements;

18 “(2) identify and pursue goals, with appropriate
19 deadlines, consistent with and supportive of the
20 agency’s asset management plan and measure
21 progress against such goals; and

22 “(3) identify any other information and pursue
23 any other actions necessary to the appropriate devel-
24 opment and implementation of the agency asset
25 management plan.

1 “(c) MONITORING OF ASSETS.—The Senior Real
2 Property Officer of an agency shall be responsible, on an
3 ongoing basis, for monitoring the real property assets of
4 the agency so that agency assets are managed in a manner
5 that is—

6 “(1) consistent with, and supportive of, the
7 goals and objectives set forth in the agency’s overall
8 strategic plan under section 306 of title 5;

9 “(2) consistent with the real property asset
10 management guidance issued by the Director; and

11 “(3) reflected in the agency asset management
12 plan.

13 “(d) PROVISION OF INFORMATION.—The Senior Real
14 Property Officer of an agency shall, on an annual basis,
15 provide to the Director and the Administrator of General
16 Services the following:

17 “(1) Information that lists and describes real
18 property assets under the jurisdiction, custody, or
19 control of that agency, except for classified informa-
20 tion.

21 “(2) Any other relevant information the Direc-
22 tor or the Administrator of General Services may re-
23 quest for inclusion in the inventory database estab-
24 lished under section 634 of this title.

1 **“§ 633. Federal Real Property Council**

2 “(a) ESTABLISHMENT OF COUNCIL.—There shall be
3 a Federal Real Property Council to facilitate the success
4 of each agency’s asset management plan. The Council
5 shall be composed exclusively of all agency Senior Real
6 Property Officers, the Controller of the Office of Manage-
7 ment and Budget, the Administrator of General Services,
8 and any other full-time or permanent part-time Federal
9 officials or employees as deemed necessary by the Chair-
10 man of the Council. The Deputy Director for Management
11 of the Office of Management and Budget shall also be a
12 member and shall chair the Council.

13 “(b) AGENCY ASSET MANAGEMENT PLANS.—

14 “(1) IN GENERAL.—The Council shall assist the
15 Director in the issuance of guidance to the Senior
16 Real Property Officers for the development and im-
17 plementation of the agency asset management plans.
18 Nothing in this paragraph shall be construed to af-
19 fect the authority of the head of an executive agen-
20 cy.

21 “(2) PERFORMANCE MEASURES.—The Council
22 shall assist the Administrator of General Services (in
23 this section referred to as the ‘Administrator’) in the
24 Administrator’s establishment of appropriate per-
25 formance measures to determine the effectiveness of
26 Federal real property management. Specifically, the

1 Council shall consider performance measures that
2 enable Senior Real Property Officers to identify real
3 property assets that are under-performing or other-
4 wise not meeting agency needs. Such performance
5 measures shall include, but are not limited to, evalu-
6 ating the costs and benefits involved with disposing
7 of Federal real properties at particular agencies.

8 “(3) DESIGN OF PERFORMANCE MEASURES.—

9 The performance measures shall be designed to en-
10 able the heads of executive agencies to track
11 progress in the achievement of Government-wide
12 property management objectives (including the iden-
13 tification of all agency real property assets and
14 agencies’ needs for retaining and managing such as-
15 sets), as well as allow for comparing the perform-
16 ance of executive agencies against industry and
17 other public sector agencies.

18 “(c) BEST PRACTICES CLEARINGHOUSE.—The Coun-
19 cil shall serve as a clearinghouse for executive agencies
20 for best practices in evaluating actual progress in the im-
21 plementation of real property enhancements. The Council
22 shall also assist the Senior Real Property Officers in their
23 implementation of agency asset management plans.

24 “(d) USE OF FUND.—The Director may authorize
25 the Administrator of General Services to use amounts in

1 the Federal Real Property Pilot Program Fund estab-
2 lished under section 624(d) of this title for such purposes
3 as the Director considers appropriate to support Federal
4 real property disposal activities.

5 **“§ 634. Inventory database**

6 “(a) DATABASE.—The Administrator of General
7 Services (in this section referred to as the ‘Adminis-
8 trator’), in consultation with the Director and the Federal
9 Real Property Council, shall establish and maintain a sin-
10 gle, comprehensive, and descriptive database of all real
11 property under the custody and control of all executive
12 agencies, other than real property excluded for reasons of
13 national security. The Administrator shall collect from
14 each executive branch agency such descriptive informa-
15 tion, except for classified information, as the Adminis-
16 trator considers will best describe the nature, use, and ex-
17 tent of the real property holdings of the Federal Govern-
18 ment. The descriptive information about each real prop-
19 erty shall include—

20 “(1) an assessment of the property condition;

21 “(2) the cost of maintaining the property;

22 “(3) the level of utilization of the property by
23 the agency; and

24 “(4) the extent to which the mission of the
25 agency is dependent on the property.

1 “(b) STANDARDS.—The Administrator, in consulta-
2 tion with the Director and the Council, may establish data
3 and other information technology standards for use by ex-
4 ecutive agencies in developing or upgrading executive
5 agency real property information systems in order to fa-
6 cilitate reporting on a uniform basis. Those agencies with
7 particular information technology standards and systems
8 in place and in use shall be allowed to continue with such
9 use to the extent that they are compatible with the stand-
10 ards issued by the Administrator.

11 “(c) JURISDICTION OF ADMINISTRATOR.—Except for
12 the purpose of maintaining the database required under
13 this section, nothing in this section authorizes the Admin-
14 istrator to assume jurisdiction over the acquisition, man-
15 agement, or disposal of real property not subject to this
16 chapter.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 5 of subtitle I of title 40,
19 United States Code, is amended by inserting after the
20 item relating to section 625, as added by title I, the fol-
21 lowing:

“SUBCHAPTER VIII—PROPERTY MANAGEMENT GENERALLY

“631. Guidance relating to real property management.

“632. Senior Real Property Officers.

“633. Federal Real Property Council.

“634. Inventory database.”.

Amend the title so as to read: “A bill to amend title 40, United States Code, to require the Director of the Office of Management and Budget to carry out a pilot program for the expeditious disposal of underutilized Federal real property, and to improve the economy and efficiency of Federal real property.”.